

AMENDED IN ASSEMBLY AUGUST 21, 2013

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 468

Introduced by Senators Emmerson and Beall

(Coauthor: Assembly Member Mitchell)

February 21, 2013

An act to add Section 4685.8 to the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 468, as amended, Emmerson. Developmental services: statewide Self-Determination Program.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services contracts with regional centers to provide services and supports to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers, or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law establishes, contingent upon approval of a federal waiver, the Self-Directed Services Program, and requires the program to be available in every regional center catchment

area to provide participants, within an individual budget, greater control over needed services and supports.

This bill would require the department, contingent upon approval of federal funding, to establish and implement a state Self-Determination Program, as defined, that would be available in every regional center catchment area to provide participants and their families, within an individual ~~budget amount~~, *budget*, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. The statewide program would be phased in over 3 years, ~~initially~~ serving up to 2,500 regional center consumers *during the phase-in period*, and ~~thereafter would be thereafter~~, available on a voluntary basis to all eligible regional center consumers. The bill would require the department to, among other things, apply for federal funding for the program by December 31, 2014.

This bill would provide that program participants receive an individual ~~budget amount~~, *budget*, as prescribed, to be used for the purchase of services and supports necessary to implement the participant's IPP. The bill would require program participants to agree to, among other things, manage self-determination services and supports within the individual ~~budget amount~~. ~~The individual budget amount would be available to the participant each year for the purchase of services and supports under the program until a new individual budget amount has been determined.~~ *budget. The bill would require the department to require nonvended providers of services and supports who meet specified criteria to submit to a criminal background check, as specified.* The bill would, among other things, require each regional center to be responsible for implementing the program as a term of its contract, and to establish a local voluntary advisory committee to provide oversight of the project. The bill would require the State Council on Developmental Disabilities to form a volunteer statewide committee to, among other things, identify self-determination best practices. The bill would require the State Council on Developmental Disabilities to issue to the Legislature a report regarding the status of the program and recommendations to the program, as specified, and would require the department, beginning ~~January 10, 2016~~, *January 10, 2017*, to provide to the appropriate policy and fiscal committees of the Legislature prescribed information relating to the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In 1998, the Legislature expanded the Lanterman
4 Developmental Disabilities Services Act to include a
5 self-determination pilot ~~project~~. ~~That pilot project was projects.~~
6 *Those pilot projects were* continued by the Legislature in 2002
7 and 2003. However, the pilot ~~project was projects~~ were only
8 available at ~~five~~ *three* regional centers pursuant to Section 13 of
9 Chapter 1043 of the Statutes of 1998, as amended, and two
10 additional regional centers pursuant to Article 4 (commencing
11 with Section 4669.2) of Chapter 5 of Division 4.5 of the Welfare
12 and Institutions Code, and the number of individuals served by
13 the local self-determination pilot ~~programs~~ *projects* remains ~~small,~~
14 *small* at about ~~200~~ 140 regional center consumers.

15 (b) As reflected in the State Department of Developmental
16 Services 2002 Report to the Legislature, the pilot ~~project remains~~
17 *projects remain* an innovative, ~~cost-effective,~~ *cost-effective*, and
18 successful way of providing services to regional center consumers
19 and their families. The findings in the report show that
20 self-determination pilot project participants were happy and
21 experienced more freedom and responsibility in controlling the
22 direction of their services and life choices, and the project was
23 cost neutral in the aggregate. The report also found that good
24 self-determination requires intensive person-centered planning,
25 collaboration, and follow-along services and supports.

26 (c) Most other states have self-directed or self-determination
27 services as a model for providing services. Many California
28 consumers and families have asked for a statewide expansion of
29 the pilot project believing it will do the following: increase
30 innovative and effective services, eliminate bureaucracy, and
31 increase choices for consumers and parents, thereby allowing them
32 to increase their control of services and supports by easily
33 navigating increasingly complex service systems.

34 (d) Consumers in traditionally underserved linguistic, cultural,
35 socioeconomic, and ethnic communities have unique challenges
36 in accessing needed regional center services that have been
37 impacted by service limitations imposed as a response to
38 California's recent budget shortfalls. This is particularly true for

1 consumers living at home with a parent or guardian. The
2 Self-Determination Program offers increased service flexibility,
3 which will *help* promote access to needed services for these
4 consumers and their families.

5 ~~(e) The intent of this act is to allow~~ *This act allows* for voluntary
6 participation in the Self-Determination Program ~~while ensuring~~
7 ~~that the program is available to all consumers regardless of~~
8 ~~geographic location, economic or educational background, or race~~
9 ~~or ethnicity, and ensuring in all 21 regional centers and ensures~~
10 ~~cost-neutrality and a consistent statewide method of administration~~
11 ~~and comparable services. To ensure these outcomes are achieved,~~
12 ~~it is the intent of the Legislature that the State Department of~~
13 ~~Developmental Services and local advisory boards be responsible~~
14 ~~for oversight and monitoring of funds used for the~~
15 ~~Self-Determination Program and the achievement of consumer~~
16 ~~outcomes.~~ *administration. The intent of this act is to ensure that*
17 *the program is available to all consumers regardless of geographic*
18 *location, economic or educational background, or race or ethnicity.*

19 *(f) To ensure these outcomes are achieved, it is the intent of the*
20 *Legislature that the State Department of Developmental Services*
21 *and regional centers be responsible for oversight and monitoring*
22 *of funds used for the Self-Determination Program and the*
23 *achievement of consumer outcomes.*

24 ~~(f)~~
25 *(g) In addition, the intent of this act is that the*
26 *Self-Determination Program be phased in over a three-year period*
27 *and that the program will continue to be available to all consumers*
28 *as an option after the initial phase-in period ends.*

29 SEC. 2. Section 4685.8 is added to the Welfare and Institutions
30 Code, to read:

31 4685.8. (a) The department shall implement a statewide
32 Self-Determination Program. The Self-Determination Program
33 shall be available in every regional center catchment area to provide
34 participants and their families, within an individual ~~budget amount,~~
35 *budget,* increased flexibility and choice, and greater control over
36 decisions, resources, and needed and desired services and supports
37 to implement their IPP. The statewide Self-Determination Program
38 shall be phased in over three years, ~~initially serving and during~~
39 *this phase-in period, shall serve* up to 2,500 regional center
40 consumers, inclusive of the remaining participants in the

self-determination pilot-project *projects* authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, ~~and thereafter~~ *and Article 4 (commencing with Section 4669.2) of Chapter 5. Following the phase-in period, the program* shall be available on a voluntary basis to all regional center consumers who are eligible for the Self-Determination Program. The program shall be available to individuals who reflect the disability, ethnic, and geographic diversity of the state.

(b) The department in establishing the statewide program shall ~~ensure the following:~~ *do both of the following:*

(1) *For the first three years of the Self-Determination Program, determine, as part of the contracting process described in Sections 4620 and 4629, the number of participants each regional center shall serve in its Self-Determination Program. To ensure that the program is available on an equitable basis to participants in all regional center catchment areas, the number of Self-Determination program participants in each regional center shall be based on the relative percentage of total consumers served by the regional centers minus any remaining participants in the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, and Article 4 (commencing with Section 4669.2) of Chapter 5.*

(2) *Ensure all of the following:*

~~(1) The program is cost neutral in the aggregate.~~

~~(2) A statewide method of administration and determining comparable services.~~

~~(3)~~

(A) Oversight of expenditure of self-determined funds and the achievement of ~~consumer~~ *participant* outcomes over time.

~~(4)~~

~~(B) Increased consumer and family participant control over which services and supports best meet their needs and the IPP objectives. A participant's unique support system may include the purchase of existing service offerings from service providers or local businesses, hiring his or her own support workers, or negotiating unique service arrangements with local community resources.~~

~~(5)~~

(C) Comprehensive person-centered planning, including an individual budget and services that are outcome based.

1 ~~(6)~~

2 (D) Consumer and family training to ensure understanding of
3 the principles of self-determination, the planning process, and the
4 management of budgets, services, and staff.

5 ~~(7)~~

6 (E) Choice of independent facilitators who can assist with the
7 person-centered planning process and choice of financial
8 management services providers vendored by regional centers who
9 can assist with payments and provide employee-related services.

10 ~~(8)~~

11 (F) Innovation that will more effectively allow ~~consumers~~
12 *participants* to achieve their goals.

13 (c) For purposes of this section, the following definitions shall
14 apply:

15 (1) “Financial management services” means services or
16 functions that assist the participant to manage and direct the
17 distribution of funds contained in the individual budget, and ensure
18 that the participant has the financial resources to implement his or
19 her IPP throughout the year. These may ~~include, but are not limited~~
20 ~~to, include~~ bill paying services and activities that facilitate the
21 employment of service and support workers by the participant,
22 including, but not limited to, fiscal accounting, tax withholding,
23 compliance with relevant state and federal employment laws,
24 *assisting the participant in verifying vendor qualifications,*
25 *including criminal background checks,* and expenditure reports.
26 The financial management services provider shall meet the
27 requirements of Sections 58884, 58886, and 58887 of Title 17 of
28 the California Code of Regulations and other specific qualifications
29 established by the department. The costs of financial management
30 services shall be paid by the participant out of his or her individual
31 budget, *except for the cost of obtaining the criminal background*
32 *check specified in subdivision (w).*

33 (2) “Independent facilitator” means a ~~conflict-of-interest-free~~
34 person, selected and directed by the participant, ~~who may assist~~
35 *who is not otherwise providing services to the participant pursuant*
36 *to his or her IPP and is not employed by a person providing*
37 *services to the participant. The independent facilitator may assist*
38 the participant in making informed decisions about the individual
39 budget, and in locating, accessing, and coordinating services and
40 supports consistent with the participant’s IPP. He or she is available

1 to assist in identifying immediate and long-term needs, developing
2 options to meet those needs, leading, participating, or advocating
3 on behalf of the participant in the person-centered planning process
4 and development of the IPP, and obtaining identified services and
5 supports. The ~~costs~~ *cost* of the independent facilitator, *if any*, shall
6 be paid by the participant out of his or her individual budget. An
7 independent facilitator shall receive training in the principles of
8 self-determination, *the person-centered planning process*, and the
9 *other* responsibilities described in this paragraph at his or her own
10 cost.

11 (3) “~~Individual budget amount~~” *budget*” means the amount of
12 *regional center purchase of service* funding available to the
13 participant for the purchase of services and supports necessary to
14 implement the IPP. The individual budget ~~amount~~ shall be
15 determined using a fair, equitable, and transparent methodology.

16 (4) “IPP” means individual program plan, as described in Section
17 4646.

18 (5) “Participant” means an individual, and when appropriate,
19 his or her parents, legal guardian or conservator, or authorized
20 representative, who has been deemed eligible for, and has
21 voluntarily agreed to participate in, the Self-Determination
22 Program.

23 (6) “Self-determination” means a voluntary delivery system
24 consisting of a defined and comprehensive mix of services and
25 supports, selected and directed by a participant through
26 person-centered planning, in order to meet ~~all or some of~~ the
27 objectives in his or her IPP. Self-determination services and
28 supports are designed to assist the participant to achieve personally
29 defined outcomes in community settings that promote inclusion.
30 The Self-Determination Program shall only fund services and
31 supports *provided pursuant to this division* that the federal Centers
32 for Medicare and Medicaid Services ~~has determined~~ *determines*
33 are eligible for federal financial participation.

34 (d) Participation in the Self-Determination Program is fully
35 voluntary. A ~~consumer~~ *participant* may choose to participate in,
36 and may choose to leave, the Self-Determination Program at any
37 time. A regional center ~~may~~ *shall* not require or prohibit
38 participation in the Self-Determination Program as a condition of
39 eligibility for, or the delivery of, services and supports otherwise
40 available under this division. Participation in the

1 Self-Determination Program shall be available to any regional
2 center consumer who meets the following eligibility requirements:

3 ~~(1) The participant is three years of age or older.~~

4 ~~(2)~~

5 (1) The participant has a developmental disability, as defined
6 in Section 4512 *and is receiving, or is eligible to receive, services*
7 *pursuant to this division.*

8 ~~(3)~~

9 ~~(2) The participant consumer does not live in a licensed~~
10 ~~long-term health care facility, as defined in paragraph (44) of~~
11 ~~subdivision (a) of Section 54302 of Title 17 of the California Code~~
12 ~~of Regulations. An individual, and when appropriate his or her~~
13 ~~parent, legal guardian or conservator, or authorized representative,~~
14 ~~who is not eligible to participate in the Self-Determination Program~~
15 ~~pursuant to this paragraph may request that the regional center~~
16 ~~provide person-centered planning services in order to make~~
17 ~~arrangements for transition to the Self-Determination Program,~~
18 ~~provided that he or she is eligible for the California Community~~
19 ~~Transitions Project. reasonably expected to transition to the~~
20 ~~community within 90 days. In that case, the regional center shall~~
21 ~~initiate person-centered planning services within 60 days of that~~
22 ~~request.~~

23 ~~(4)~~

24 (3) The participant agrees to all of the following terms and
25 conditions:

26 (A) The participant shall receive an orientation to the
27 Self-Determination Program prior to enrollment, which includes
28 the principles of self-determination, the role of the independent
29 facilitator and the financial management services provider,
30 person-centered planning, and development of a budget.

31 (B) The participant shall ~~agree to~~ utilize the services and
32 supports available within the Self-Determination Program only
33 when generic services and supports are not available.

34 (C) The participant shall only purchase services and supports
35 necessary to implement his or her IPP and shall ~~agree to~~ comply
36 with any and all other terms and conditions for participation in the
37 Self-Determination Program described in this section.

38 (D) The participant shall manage Self-Determination Program
39 services and supports within ~~the his or her individual budget~~
40 ~~amount.~~ *budget.*

1 (E) The participant shall utilize the services of a
2 ~~conflict-of-interest-free~~ financial management services provider
3 of his or her own choosing and who is vendored by a regional
4 center.

5 (F) The participant may utilize the services of—
6 ~~conflict-of-interest-free~~ *an* independent facilitator of his or her
7 own choosing for the purpose of providing services and functions
8 as described in paragraph (2) of subdivision (c). If the participant
9 elects not to use an independent facilitator, he or she may use—
10 *his or her* regional center service coordinator ~~of his or her choosing~~
11 to provide the services and functions described in paragraph (2)
12 of subdivision (c).

13 (e) A participant who is not Medi-Cal eligible may participate
14 in the Self-Determination Program and receive self-determination
15 services and supports if all other program eligibility requirements
16 are met and the services and supports are otherwise eligible for
17 federal financial participation.

18 (f) An individual receiving services and supports under ~~the a~~
19 ~~self-determination pilot programs~~ *project* authorized pursuant to
20 Section 13 of Chapter 1043 of the Statutes of 1998, as amended,
21 *or pursuant to Article 4 (commencing with Section 4669.2) of*
22 *Chapter 5,* may elect to continue to receive self-determination
23 services and supports pursuant to this section or the regional center
24 shall provide for the participant's transition from the
25 self-determination pilot program to other services and supports.
26 This transition shall include the development of a new IPP that
27 reflects the services and supports necessary to meet the individual's
28 needs. The regional center shall ensure that there is no gap in
29 services and supports during the transition period.

30 (g) The additional federal financial participation funds generated
31 ~~by individuals participating in the Self-Determination Program~~
32 ~~pursuant to this section shall be used to offset the administrative~~
33 ~~costs of the program, including, but not limited to, training for~~
34 ~~consumers, family members, and regional center staff, caseload~~
35 ~~ratio improvement, and costs associated with the participant's~~
36 ~~initial person-centered planning meeting and development of the~~
37 ~~participant's initial budget amount.~~ *the former participants of the*
38 *self-determination pilot projects authorized pursuant to Section*
39 *13 of Chapter 1043 of the Statutes of 1998, as amended, or*

1 pursuant to Article 4 (commencing with Section 4669.2) of Chapter
2 5, shall be used as follows:

3 (1) First, to offset the cost to the department for the criminal
4 background check conducted pursuant to subdivision (w), and
5 other administrative costs incurred by the department in
6 implementing the Self-Determination Program.

7 (2) With any remaining funds, to offset the administrative costs
8 to the regional centers in implementing the Self-Determination
9 Program, including, but not limited to, caseload ratio enhancement,
10 training for consumers, family members, and regional center staff,
11 costs associated with the participant's initial person-centered
12 planning meeting, and the development of the participant's initial
13 individual budget.

14 (h) If at any time during participation in the Self-Determination
15 Program a regional center determines that a participant is no longer
16 eligible to continue in, or a participant voluntarily chooses to exit,
17 the Self-Determination Program, the regional center shall provide
18 for the participant's transition from the Self-Determination Program
19 to other services and supports. This transition shall include the
20 development of a new IPP that reflects the services and supports
21 necessary to meet the individual's needs. The regional center shall
22 ensure that there is no gap in services and supports during the
23 transition period.

24 (i) An individual determined to be ineligible for or who
25 voluntarily exits the Self-Determination Program shall be permitted
26 to return to the Self-Determination Program upon meeting all
27 applicable eligibility criteria and upon approval of the participant's
28 planning team, as described in subdivision (j) of Section 4512. An
29 individual who has voluntarily exited the Self-Determination
30 Program ~~may~~ shall not return to the program for at least 12 months.
31 During the first three years of the program, the individual's right
32 to return to the program is conditioned on his or her regional
33 center not having reached the participant cap imposed by
34 subdivision (a).

35 (j) An individual who participates in the Self-Determination
36 Program may elect to continue to receive self-determination
37 services and supports if he or she transfers to another regional
38 center catchment area, provided that he or she remains eligible
39 for the Self-Determination Program pursuant to subdivision (d).

1 *The balance of the participant's individual budget shall be*
2 *reallocated to the regional center to which he or she transfers.*

3 (k) The IPP team shall utilize the person-centered planning
4 process to develop the IPP for a participant. The IPP shall detail
5 the goals and objectives of the participant that are to be met through
6 the purchase of participant-selected services and supports. The
7 IPP team shall determine the individual budget-amount to ensure
8 the budget amount assists the participant to achieve the outcomes
9 set forth in his or her IPP and ensures his or her health and safety.
10 The completed individual budget-amount shall be attached to the
11 IPP.

12 (l) The participant shall implement his or her IPP, including
13 choosing and purchasing the services and supports allowable under
14 this section necessary to implement the plan. A participant is
15 exempt from the cost control restrictions regarding the purchases
16 of services and supports pursuant to Sections 4648.5 and 4686.5.
17 A regional center shall not prohibit the purchase of any service or
18 support that is otherwise allowable under this section.

19 (m) A participant shall have all the rights established in Sections
20 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section
21 4700).

22 ~~(n) (1) During the first two years of the Self-Determination~~
23 ~~Program, the individual budget amount shall equal 98 percent of~~
24 ~~the annual purchase of service costs for the individual. The annual~~
25 ~~costs shall reflect the average annual costs for the previous two~~
26 ~~fiscal years for the individual. In addition, the IPP team may adjust~~
27 ~~the individual budget amount to address a change in the~~
28 ~~participant's circumstances.~~

29 ~~(2) Prior to the end of the second year of the Self-Determination~~
30 ~~Program, the department, in consultation with stakeholders, shall~~
31 ~~develop one or more additional methodologies for individual~~
32 ~~budget amounts that are computed in a fair, transparent, and~~
33 ~~equitable manner and are based on consumer characteristics and~~
34 ~~needs, and that include a method for adjusting individual budget~~
35 ~~amounts to address a participant's change in circumstances.~~

36 ~~(o) The IPP team, using any of the methodologies developed in~~
37 ~~subdivision (n), shall determine the individual budget amount for~~
38 ~~the participant. That individual budget amount shall be available~~
39 ~~to the participant each year for the purchase of program services~~
40 ~~and supports until a new individual budget amount has been~~

~~1 determined. An individual budget amount shall be calculated no
2 more than once in a 12-month period, unless revised to address a
3 participant's change in circumstances. The IPP team shall annually
4 ascertain from the participant whether there are any circumstances
5 that require a change to the annual individual budget amount. The
6 individual budget amount shall be distributed among uniform
7 budget categories developed by the department in consultation
8 with stakeholders and in accordance with the timing of the
9 expenditures anticipated in the IPP.~~

10 *(n) (1) Except as provided in paragraph (4), the IPP team shall
11 determine the initial and any revised individual budget for the
12 participant using the following methodology:*

13 *(A) (i) Except as specified in clause (ii), for a participant who
14 is a current consumer of the regional center, his or her individual
15 budget shall be the total amount of the most recently available 12
16 months of purchase of service expenditures for the participant.*

17 *(ii) An adjustment may be made to the amount specified in clause
18 (i) if both of the following occur:*

19 *(aa) The IPP team determines that an adjustment to this amount
20 is necessary due to a change in the participant's circumstances,
21 needs, or resources that would result in an increase or decrease
22 in purchase of service expenditures, or the IPP team identifies
23 prior needs or resources that were unaddressed in the IPP, which
24 would have resulted in an increase or decrease in purchase of
25 service expenditures.*

26 *(ab) The regional center certifies on the individual budget
27 document that regional center expenditures for the individual
28 budget, including any adjustment, would have occurred regardless
29 of the individual's participation in the Self-Determination Program.*

30 *(iii) For purposes of clauses (i) and (ii), the individual budget
31 shall not be increased to cover the cost of the independent
32 facilitator or the financial management services.*

33 *(B) For a participant who is not a current consumer of the
34 regional center, his or her individual budget shall be calculated
35 as follows:*

36 *(i) The IPP team shall identify the services and supports needed
37 by the participant and available resources, as required by Section
38 4646.*

39 *(ii) The regional center shall calculate the cost of providing the
40 services and supports to be purchased by the regional center by*

1 *using the average cost paid by the regional center for each service*
2 *or support unless the regional center determines that the consumer*
3 *has a unique need that requires a higher or lower cost. The*
4 *regional center shall certify on the individual budget document*
5 *that this amount would have been expended using regional center*
6 *purchase of service funds regardless of the individual's*
7 *participation in the Self-Determination Program.*

8 *(iii) For purposes of clauses (i) and (ii), the individual budget*
9 *amount shall not be increased to cover the cost of the independent*
10 *facilitator or the financial management services.*

11 *(2) The individual budget amount shall be available to the*
12 *participant each year for the purchase of program services and*
13 *supports. An individual budget shall be calculated no more than*
14 *once in a 12-month period, unless revised to reflect a change in*
15 *circumstances, needs, or resources of the participant using the*
16 *process specified in clause (ii) of subparagraph (A) of paragraph*
17 *(1).*

18 *(3) The individual budget shall be assigned to uniform budget*
19 *categories developed by the department in consultation with*
20 *stakeholders and distributed according to the timing of the*
21 *anticipated expenditures in the IPP and in a manner that ensures*
22 *that the participant has the financial resources to implement his*
23 *or her IPP.*

24 *(4) The department, in consultation with stakeholders, may*
25 *develop alternative methodologies for individual budgets that are*
26 *computed in a fair, transparent, and equitable manner and are*
27 *based on consumer characteristics and needs, and that include a*
28 *method for adjusting individual budgets to address a participant's*
29 *change in circumstances or needs.*

30 ~~(p)~~

31 *(o) Annually, participants may transfer up to 10 percent of the*
32 *funds originally distributed to any budget category set forth in*
33 ~~subdivision (e) paragraph (3) of subdivision (n)~~ *to another budget*
34 *category or categories. Transfers in excess of 10 percent of the*
35 *original amount allocated to any budget category may be made*
36 *upon the approval of the regional center or the participant's IPP*
37 *team. Regional centers or the IPP team may only deny a transfer*
38 *if necessary to protect the health and safety of the participant.*

39 ~~(q)~~

(p) Consistent with the implementation date of the IPP, the IPP team shall annually ascertain from the participant whether there are any circumstances *or needs* that require a change to the annual individual ~~budget amount~~. *budget*. Based on that review, the IPP team shall calculate a new individual budget ~~amount~~ consistent with the methodology identified in subdivision (n).

~~(r)~~

(q) (1) On or before December 31, 2014, the department shall apply for federal Medicaid funding for the Self-Determination Program by ~~applying~~ *doing one or more of the following*:

(A) ~~Applying~~ for a state plan ~~amendment~~, *amendment*.

(B) ~~Applying~~ for an amendment to a current home- and community-based waiver for individuals with developmental disabilities, ~~for a new waiver, or by seeking to maximize federal financial participation through other means.~~ *Contingent disabilities*.

(C) ~~Applying~~ for a new waiver.

(2) *To the extent feasible, the state plan amendment, waiver, or other federal request described in paragraph (1) shall incorporate the eligibility requirements, benefits, and operational requirements set forth in this section. Except for the provisions of subdivisions (k), (m), (p), and this subdivision, the department may modify eligibility requirements, benefits, and operational requirements as needed to secure approval of the Medicaid waiver.*

(3) ~~Contingent upon approval of federal funding, the Self-Determination Program shall be established. The department shall adopt regulations to implement the procedures set forth in this section.~~

(r) (1) *The department, as it determines necessary, may adopt regulations to implement the procedures set forth in this section. Any regulations shall be adopted in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

(2) *Notwithstanding paragraph (1) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and only to the extent that all necessary federal approvals are obtained, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary*

1 *authority as necessary to implement program changes only until*
2 *completion of the regulatory process.*

3 (s) The department, in consultation with stakeholders, shall
4 develop informational materials about the Self-Determination
5 Program. The department shall ensure that regional centers are
6 trained in the principles of self-determination, the mechanics of
7 the Self-Determination Program, and the rights of consumers and
8 families as candidates for, and participants in, the
9 Self-Determination Program.

10 (t) Each regional center shall be responsible for implementing
11 the Self-Determination Program as a term of its contract under
12 Section 4629. As part of implementing the program, the regional
13 center shall do ~~both~~ *both* of the following:

14 (1) Contract with local consumer or family-run organizations
15 to conduct outreach through local meetings or forums to consumers
16 and their families to provide information about the
17 Self-Determination Program and to help ensure that the program
18 is available to a diverse group of participants, with special outreach
19 to underserved communities.

20 (2) Collaborate with the local consumer or family-run
21 organizations identified in paragraph (1) to jointly conduct training
22 about the Self-Determination Program.

23 ~~(3) Advance funds to a financial management services provider~~
24 ~~to facilitate participation in the Self-Determination Program, when~~
25 ~~the participant's IPP team determines it is necessary to enable~~
26 ~~participation in the Self-Determination Program. The regional~~
27 ~~center shall not, at any one time, advance more than 15 percent of~~
28 ~~the budget amount.~~

29 (u) The financial management services provider shall provide
30 the participant and the regional center service coordinator with a
31 monthly individual budget statement that describes the amount of
32 funds allocated by budget category, the amount spent in the
33 previous 30-day period, and the amount of funding that remains
34 available under the participant's individual ~~budget amount.~~ *budget.*

35 (v) Only the financial management services provider is required
36 to apply for vendorization in accordance with Subchapter 2
37 (commencing with Section 54300) of Chapter 3 of Title 17 of the
38 California Code of Regulations, for the Self-Determination
39 Program. All other service *and support* providers shall *not be on*
40 *the federal debarment list and shall* have applicable state licenses,

1 certifications, or other state required documentation, *including*
2 *documentation of any other qualifications required by the*
3 *department*, but are exempt from the vendorization requirements
4 set forth in Title 17 of the California Code of Regulations when
5 serving participants in the Self-Determination Program, and shall
6 ~~not be on the federal debarment list Program.~~

7 ~~(w) (1) A participant may request, at no charge to the participant~~
8 ~~or the regional center, criminal history background checks for~~
9 ~~persons seeking employment as a provider of services and supports~~
10 ~~to the participant. The criminal history record checks pursuant to~~
11 ~~this subdivision shall be performed and administered as described~~
12 ~~in subdivision (b) of Section 4689.2. The department may enter~~
13 ~~into a written agreement with the Department of Justice to~~
14 ~~implement this subdivision.~~

15 ~~(2) Upon receipt of information relating to the criminal history~~
16 ~~background check, the department shall do one of the following:~~

17 ~~(A) Advise the participant that the person seeking employment~~
18 ~~declined to allow any information to be reported.~~

19 ~~(B) With the consent of the person who is seeking employment,~~
20 ~~provide the participant with a copy of the criminal history~~
21 ~~background check.~~

22 ~~(w) To protect the health and safety of participants in the~~
23 ~~Self-Determination Program, the department shall require a~~
24 ~~criminal background check in accordance with all of the following:~~

25 ~~(1) The department shall issue a program directive that identifies~~
26 ~~nonvended providers of services and supports who shall obtain~~
27 ~~a criminal background check pursuant to this subdivision. At a~~
28 ~~minimum these staff shall include both of the following:~~

29 ~~(A) Individuals who provide direct personal care services to a~~
30 ~~participant.~~

31 ~~(B) Other nonvended providers of services and supports for~~
32 ~~whom a criminal background check is requested by a participant~~
33 ~~or the participant's financial management service.~~

34 ~~(2) Notwithstanding paragraph (1), a criminal background~~
35 ~~check is not required pursuant to this subdivision if the provider~~
36 ~~of services and supports is able to provide in a form that is~~
37 ~~satisfactory to the department a recent criminal background history~~
38 ~~or other written document verifying that no criminal history has~~
39 ~~been recorded, and the department is able to receive subsequent~~
40 ~~criminal history information about the individual.~~

1 (3) *The criminal background check shall be performed and*
2 *administered consistent with the requirements of subdivision (b)*
3 *of, and subdivisions (d) to (h), inclusive, of, Section 4689.2, and*
4 *of Section 4689.6.*

5 (4) *The financial management service, as the vendored agency,*
6 *shall submit the fingerprints of any provider of services and*
7 *supports who is required to obtain a criminal background check*
8 *to the Department of Justice not later than four calendar days*
9 *following employment. The costs of the fingerprints and the*
10 *financial management service's administrative cost authorized by*
11 *the department shall be paid by the services and supports provider*
12 *or his or her employing agency. Any administrative costs incurred*
13 *by the department pursuant to this subdivision shall be offset by*
14 *the funds specified in subdivision (g).*

15 (5) *The Department of Justice shall provide a criminal*
16 *background check to the department and the financial management*
17 *service as required by paragraph (2) of subdivision (d) of Section*
18 *4689.2.*

19 (6) *Upon receipt of the criminal record information report*
20 *showing no criminal history, the financial management service*
21 *shall advise the participant of that fact.*

22 (7) *If the criminal record information report shows a criminal*
23 *history, the department shall take the steps specified in Section*
24 *4689.2. The department may prohibit a provider of services and*
25 *supports from becoming employed, or continuing to be employed,*
26 *based on the criminal background check, as authorized in Section*
27 *4689.6. The provider of services and supports who has been denied*
28 *employment shall have the rights set forth in Section 4689.6.*

29 (8) *The department may permit a provider of services and*
30 *supports to transfer a current criminal record clearance from one*
31 *financial management service or participant to another, as long*
32 *as the criminal record clearance has been processed through the*
33 *department.*

34 (9) *Consistent with subdivision (h) of Section 4689.2, the*
35 *participant or financial management service that denies or*
36 *terminates employment based on written notification from the*
37 *department shall not incur civil liability or unemployment*
38 *insurance liability.*

39 (x) *To ensure the effective implementation of the*
40 *Self-Determination Program and facilitate the sharing of best*

practices and training materials commencing with the implementation of the Self-Determination Program, local and statewide advisory committees shall be established as follows:

(1) Each regional center shall establish a local volunteer advisory committee to provide oversight of the Self-Determination Program. The regional center and the area board shall each appoint one-half of the membership of the committee. The committee shall consist of the regional center clients' rights advocate, consumers, family members, and other advocates, and community leaders. A majority of the committee shall be consumers and their family members. The committee shall reflect the multicultural diversity and geographic profile of the catchment area. The committee shall review the development and ongoing progress of the Self-Determination Program, including whether the program advances the principles of self-determination and is operating consistent with the requirements of this section, and may make ongoing recommendations for improvement to the regional center and the department.

(2) The State Council on Developmental Disabilities shall form a volunteer committee, to be known as the Statewide Self-Determination Advisory Committee, comprised of the chairs of the 21 local advisory committees or their designees. The council shall convene the Statewide Self-Determination Advisory Committee ~~at least semiannually~~ *twice annually, or more frequently in the sole discretion of the council. The Statewide Self-Determination Advisory Committee shall meet* by teleconference or other means established by the council, to identify self-determination best practices, effective consumer and family training materials, implementation concerns, systemic issues, ~~and~~ *ways to enhance the program, and recommendations regarding the most effective method for participants to learn of individuals who are available to provide services and supports.* The council shall synthesize information received from the Statewide Self-Determination Advisory Committee, local advisory committees, and other sources, shall share the information with consumers, families, regional centers and the department, and shall make recommendations, as appropriate, to increase the program's effectiveness in furthering the principles of self-determination.

(y) Commencing January 10, ~~2016~~, 2017, the department shall annually provide the following information to the appropriate policy and fiscal committees of the Legislature:

(1) Number and characteristics of participants, by regional center.

(2) Types and ~~ranking~~ *amount* of services and supports purchased under the Self-Determination Program, by regional center.

(3) Range and average of individual budget amounts, by regional center, including adjustments to the budget amounts to address unanticipated change in circumstances.

(4) The number and outcome of individual budget amount appeals, by regional center.

(5) The number and outcome of fair hearing appeals, by regional center.

(6) The number of participants who voluntarily withdraw from the Self-Determination Program and a summary of the reasons why, by regional center.

(7) The number of participants who are subsequently determined to no longer be eligible for the Self-Determination Program and a summary of the reasons why, by regional center.

(z) (1) The State Council on Developmental Disabilities, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, may work with regional centers to survey participants regarding participant satisfaction under the Self-Determination Program, and, when data is available, the traditional service delivery system, including the proportion of participants who report that their choices and decisions are respected and supported and who report that they are able to recruit and hire qualified service providers, and to identify barriers to participation and recommendations for improvement. ~~The~~

(2) *The* council shall issue a report to the Legislature, in compliance with Section 9795 of the Government Code, no later than three years following the approval of the federal funding on the status of the Self-Determination Program authorized by this section, and provide recommendations to enhance the effectiveness of the program. This review shall include the program's

1 effectiveness in furthering the principles of self-determination,
2 including all of the following:

3 ~~(1)~~

4 (A) Freedom, which includes the ability of adults with
5 developmental disabilities to exercise the same rights as all citizens;
6 to establish, with freely chosen supporters, family and friends,
7 where they want to live, with whom they want to live, how their
8 time will be occupied, and who supports them; and, for families,
9 to have the freedom to receive unbiased assistance of their own
10 choosing when developing a plan and to select all personnel and
11 supports to further the life goals of a minor child.

12 ~~(2)~~

13 (B) Authority, which includes the ability of a person with a
14 disability, or family, to control a certain sum of dollars in order to
15 purchase services and supports of their choosing.

16 ~~(3)~~

17 (C) Support, which includes the ability to arrange resources and
18 personnel, both formal and informal, that will assist a person with
19 a disability to live a life in his or her community that is rich in
20 community participation and contributions.

21 ~~(4)~~

22 (D) Responsibility, which includes the ability of participants to
23 take responsibility for decisions in their own lives and to be
24 accountable for the use of public dollars, and to accept a valued
25 role in their community through, for example, competitive
26 employment, organizational affiliations, spiritual development,
27 and general caring of others in their community.

28 ~~(5)~~

29 (E) Confirmation, which includes confirmation of the critical
30 role of participants and their families in making decisions in their
31 own lives and designing and operating the system that they rely
32 on.